



KANSAS INSURANCE DEPARTMENT

Vicki Schmidt, Commissioner

Neutral Testimony on Senate Bill 252 – Medicaid Expansion and Reinsurance January 28, 2020

Mr. Chairman and Members of the Committee,

My name is Lee Modesitt and I am the Director of Government Affairs & Communications for the Kansas Insurance Department. Thank you for the opportunity to appear before this committee to provide neutral testimony on Senate Bill 252.

As Commissioner Schmidt has said on numerous occasions, the Department does not weigh in to support or oppose legislation unless it is part of our own legislative agenda, impacts accreditation or affects our ability to do our job.

Senate Bill 252 contains two distinct proposals: expansion of Medicaid and a 1332 Waiver commonly referred to as reinsurance. As members of this committee know, Medicaid is not regulated by the Kansas Insurance Department and we will not be commenting on it. My testimony today will focus specifically on the 1332 waiver aspect of this bill.

Let me first say that in principle the department has no issue with reinsurance. A dozen states have implemented reinsurance programs as part of a 1332 waiver including our neighbor, Colorado. At the same time, eight states have pursued 1332 waivers only to either be denied or withdraw their application, including Iowa and Oklahoma. Reinsurance is attractive to many states as it can help carriers spread their risk and lower premiums for consumers.

As you know, SB 252 was not introduced by the Kansas Insurance Department, however, it directs us to do a number of things, all of which cost money. Outside of the \$35 million for the reinsurance program itself, SB 252 does not make specific provision to cover the cost of applying for or administering the program.

The Kansas Insurance Department is completely fee funded, receiving no state general fund revenue. We are very concerned about the precedent and the potential legality of using the Insurance Department Service Regulation Fund for something other than the statutory purpose of general regulation of insurance.

The department receives funding through fees paid by all insurance agents and companies doing all lines of business in Kansas. While only the five companies that write policies on the exchange would benefit from the reinsurance program. For example, a company that only sells property and casualty insurance would pay into the fund, but not receive any benefit from the reinsurance

program. In addition, Insurance Department fee funds have been the subject of at least two lawsuits regarding their intended purpose.

We strongly believe that if the Legislature determines the appropriate way to try to reduce health insurance costs for those Kansans on the exchange is through a reinsurance program, then money should be made available through the State General Fund to cover the cost related to obtaining approval for and the subsequent administration of the program.

Colorado's Insurance Department, a state with a similar waiver design, receives funds directly for the purposes of administering the program. Please do not misunderstand, we have reservations about taking state general fund money; however, we believe that would be a more appropriate mechanism to cover the costs of a program that expands the Kansas Insurance Department's role. We do not believe that funds paid by property and casualty agents and companies or funds paid by health and life companies and agents that are not directly benefitting from the reinsurance program should go to a purpose that does not benefit them or advance the Kansas Insurance Department's role.

The Kansas Insurance Department exists for the general regulation of the business of insurance in Kansas. Our purpose is to protect consumers, ensure companies are solvent and capable of paying claims, and that agents conduct themselves according to the law. SB 252 is a dramatic expansion of the Kansas Insurance Department's role beyond its current statutory purposes. On behalf of Kansas, we are willing to do that work, but for fairness to all companies that pay fees to support the traditional regulatory functions of the Kansas Insurance Department, we believe the cost of the work should be funded by the State General Fund.

Thank you for the opportunity to submit this testimony. I'd be happy to answer any questions at the appropriate time.